

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

AUBREY U. LEWIS, SR.

| Case No. 3:16-cv-00478-MMD-WGC

1

Plaintiff,

ORDER

RENO POLICE, et al.

Defendants.

13 Before the Court are two motions to dismiss: (1) Defendant Kevin Moss's motion
14 (ECF No. 27) and (2) Defendants Jason Pruyn and Anthony Della's motion (ECF No. 38).
15 In response to Moss's motion, Plaintiff asked for a 90-day extension of time (ECF No. 34),
16 which the Court granted in part, giving him until June 19, 2017, to file a response (ECF
17 No. 37 at 1.) To date, Plaintiff has not responded to either motion.

Under Local Rule LR 7-2(d), “[t]he failure of an opposing party to file points and authorities in response to any motion [with exceptions not applicable here] shall constitute a consent to the granting of the motion.” When an opposing party receives notice and is given sufficient time to respond to a motion to dismiss, a district court does not abuse its discretion in granting the motion based on failure to comply with a local rule. See *Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir.1995). Before dismissing a case for failing to follow local rules, the district court must weigh the following factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice; (4) the public policy favoring disposition of cases on their merits and (5) the availability of less drastic sanctions. *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir.1986).

1 In the present case, Plaintiff was given appropriate notice of Defendants' motions
2 to dismiss; and he has had ample time to respond to these motions, which have been
3 pending for over six months. In fact, Plaintiff was aware of the need to respond as
4 evidence by his request for extension to respond to Moss's motion. (ECF No. 34.) The
5 Court has weighed the above factors. It finds that the public's interest in expeditious
6 resolution of litigation, as well as the Court's need to manage its docket, outweigh the risk
7 of prejudice and the remaining factors. Accordingly, the Court will grant the pending
8 motions to dismiss.

9 It is therefore ordered that Defendants' motions to dismiss (ECF Nos. 27, 38) are
10 granted. Dismissal is without prejudice.

11 The Clerk is instructed to close this case.

DATED THIS 2nd day of January 2018.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE